

Document: Emergency Rule

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**TITLE 71 INDIANA HORSE RACING
COMMISSION**

LSA Document #01-64(E)

DIGEST

Amends 71 IAC 1-1-106 concerning definition of sulky. Amends 71 IAC 2-10-1 concerning exclusion of patrons and licensed and unlicensed persons. Amends 71 IAC 3-2-9 concerning judge's list. Amends 71 IAC 3-4-1 concerning general authority. Amends 71 IAC 3-6-1 concerning clerk of the course. Amends 71 IAC 4-3-9 concerning lighting. Amends 71 IAC 4-3-15 concerning pylons. Amends 71 IAC 5-1-12 concerning license refusal. Amends 71 IAC 5-1-13 concerning license denial. Amends 71 IAC 5-2-1 concerning licensing requirements for owners. Amends 71 IAC 5-2-5 concerning racing colors. Amends 71 IAC 5-3-3 concerning other responsibilities. Amends 71 IAC 5-3-6 concerning substitute trainers. Amends 71 IAC 6-1-1 concerning general provisions. Amends 71 IAC 6-1-3 concerning claiming procedure. Amends 71 IAC 6-4-4 concerning nominations, fees, and purses. Amends 71 IAC 7-1-9 concerning registration with USTA or CTA. Amends 71 IAC 7-1-10 concerning identification of horse. Amends 71 IAC 7-1-18 concerning racing entries. Amends 71 IAC 7-1-20 concerning elimination heats or divisions. Amends 71 IAC 7-1-29 concerning declaration to start and drawing horses. Amends 71 IAC 7-2-5 concerning starting. Amends 71 IAC 7-3-2 concerning restriction on financial interest. Amends 71 IAC 7-3-6 concerning attire. Amends 71 IAC 7-3-7 concerning driving rules. Amends 71 IAC 8-10-5 concerning positive sample results. Amends 71 IAC 10-1-1 concerning general provisions. Amends 71 IAC 10-2-4 concerning notice. Amends 71 IAC 10-2-9 concerning appeals. Amends 71 IAC 10-3-4 concerning filing pleadings. Amends 71 IAC 10-3-8 concerning conferences. Amends 71 IAC 10-3-15 concerning final order and findings. Amends 71 IAC 11-1-13 concerning transfers of permits. Repeals 71 IAC 3-3-2, 71 IAC 7-1-23, and 71 IAC 7-2-1. Effective February 20, 2001.

71 IAC 1-1-106	71 IAC 7-1-18
71 IAC 2-10-1	71 IAC 7-1-20
71 IAC 3-2-9	71 IAC 7-1-23
71 IAC 3-3-2	71 IAC 7-1-29
71 IAC 3-4-1	71 IAC 7-1-36
71 IAC 3-6-1	71 IAC 7-2-1
71 IAC 4-3-9	71 IAC 7-2-5
71 IAC 4-3-15	71 IAC 7-3-2
71 IAC 5-1-12	71 IAC 7-3-6
71 IAC 5-1-13	71 IAC 7-3-7
71 IAC 5-2-1	71 IAC 8-10-5
71 IAC 5-2-5	71 IAC 10-1-1
71 IAC 5-3-3	71 IAC 10-2-4
71 IAC 5-3-6	71 IAC 10-2-9
71 IAC 6-1-1	71 IAC 10-3-4
71 IAC 6-1-3	71 IAC 10-3-8
71 IAC 6-4-4	71 IAC 10-3-15
71 IAC 7-1-9	71 IAC 11-1-13
71 IAC 7-1-10	

SECTION 1. 71 IAC 1-1-106 IS AMENDED TO READ AS FOLLOWS:

71 IAC 1-1-106 "Sulky" defined

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 106. "Sulky" means a dual wheel racing vehicle with dual shafts not exceeding the height of the horse's withers. Shafts must

be hooked separately on each side **and approved by the USTA.** (*Indiana Horse Racing Commission; 71 IAC 1-1-106; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1123; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2096*)

SECTION 2. 71 IAC 2-10-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 2-10-1 Exclusion of patrons and licensed and unlicensed persons

Authority: IC 4-31-3-9

Affected: IC 4-31-13-1

Sec. 1. (a) The judges, executive director, or commission may order an individual ejected or excluded from all or part of any premises under the regulatory jurisdiction of the commission if the judges, executive director, or commission determines that:

- (1) the individual may be ejected or excluded under IC 4-31-13-1(a)(3); and
- (2) the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(b) An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the judges or commission. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the judges or commission. A hearing on an exclusion shall be conducted in the same manner as other hearings conducted by the judges or commission.

~~(c) If an individual is excluded under this section, a horse owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction:~~

~~(c)~~ (c) Unless otherwise provided, exclusions under this section shall be for all of the premises under the regulatory jurisdiction of the commission, including satellite facilities. (*Indiana Horse Racing Commission; 71 IAC 2-10-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2070; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2151; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097*)

SECTION 3. 71 IAC 3-2-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3-2-9 Judge's list

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 9. (a) The judges shall maintain a judge's list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the race track that may endanger the health and safety of the participants and for the protection of the wagering public. The reasons for a horse to be placed on the judge's list and ordered to qualify shall include, but not be limited to, the following on a fast or good track:

- (1) Making a break in a qualifying race.
- (2) Making a break in a race following a qualifying race unless, finishing ~~first, second 1st, 2nd, or third 3rd.~~ **Two (2) year old nonwagering purse races for three hundred dollars (\$300) or less shall be considered a qualifying race.**
- (3) Poor performance **or failure to go in a qualifying time** following a qualifying race.
- (4) Poor performance in a qualifying race regardless of going in qualifying time.
- (5) Failing to go in qualifying time in two (2) consecutive starts.
- (6) Making breaks in two (2) consecutive starts unless finishing ~~first, second 1st, 2nd, or third 3rd~~ in one (1) of the two (2).
- (7) Being scratched sick or lame in two (2) consecutive programmings or **scratched sick or lame from a race following a qualifying race.**
- (8) Numerous bad lines in its last six (6) starts regardless of being consecutive on finishing ~~first, second 1st, 2nd, or third 3rd.~~

(b) (1) A horse showing a satisfactory line in one (1) of its last two (2) starts or its last start at a pari-mutuel track prior to racing at a county fair track, the county fair lines will not be considered towards its eligibility to return to the pari-mutuel track. Notwithstanding the above satisfactory line, at the pari-mutuel track, must be within its last six (6) programmed lines **but within thirty (30) days of the pari-mutuel start (race date to race date).**

(2) A horse having not raced at a pari-mutuel track must show a satisfactory charted line in one (1) of its last two (2) county fair starts within the time standards set.

(c) The judges may place a horse on the judge's list when there exists a question as to the exact identification or ownership of a horse.

(d) A horse may not be released from the judge's list without permission of the judges. (*Indiana Horse Racing Commission; 71 IAC 3-2-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1129; emergency rule filed Apr 9, 1998, 1:18 p.m.: 21 IR 3377; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097*)

SECTION 4. 71 IAC 3-4-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3-4-1 General authority

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. The paddock judge shall be responsible for the following:

- (1) Ensuring that the horses are on the race track for post parades in accordance with the schedule issued by the judges.
- (2) Inspection of horses for changes of equipment, broken or faulty equipment, and head numbers.
- (3) Supervision of paddock gate operators.
- (4) Proper check-in and check-out of horses and drivers.
- (5) Direction of the activities of the paddock horseshoer.
- ~~(6) Ensuring that only properly authorized persons are permitted in the paddock.~~
- ~~(7)~~ (6) Ensuring that only sulkies approved by the commission are allowed on the track during warm-ups and racing.

(*Indiana Horse Racing Commission; 71 IAC 3-4-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1130; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1496; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097*)

SECTION 5. 71 IAC 3-6-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3-6-1 Clerk of the course

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. The clerk of the course shall be responsible for the following:

- ~~(1) Keeping and verifying the judge's book and eligibility certificates provided by the USTA or CTA, and recording therein all~~
Recording and informing the USTA via computer and the Internet all required information, including:
 - (A) names and addresses of owners;
 - (B) the standard symbols for medications, where applicable;
 - (C) notations of placings, disqualifications, and claimed horses; and
 - (D) notations of scratched or ruled out horses;
- ~~(2) Returning the eligibility certificate to the horse's owner or the owner's representative after the race, when requested.~~
- ~~(3) Notifying owners and drivers of penalties assessed by the officials.~~
- ~~(4) Assisting in drawing post positions, if requested.~~
- (5) (E) maintaining the judge's list.

(*Indiana Horse Racing Commission; 71 IAC 3-6-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1131; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098*)

SECTION 6. 71 IAC 4-3-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 4-3-9 Lighting

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 9. (a) An association shall provide lighting for the race track and the patron facilities that is adequate to ensure the safety and security of the patrons, licensees, and horses. Lighting to ensure the proper operation of the videotape and photo finish equipment must be approved by the commission.

(b) An association shall provide adequate additional lighting in the stable area as required by the commission.

(c) If an association conducts racing at night, the association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

(d) If the track goes dark during the running of a race, the race may be ruled no contest if in the judges opinion the contest or finish was compromised. (*Indiana Horse Racing Commission; 71 IAC 4-3-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1137; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098*)

SECTION 7. 71 IAC 4-3-15 IS AMENDED TO READ AS FOLLOWS:

71 IAC 4-3-15 Pylons

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 15. (a) If, at a race track which has pylon demarcations [*sic.*], a horse or the horse's sulky leaves the course by brushing, running over, and/or going inside of the pylons, that horse may be penalized by a disqualification, if in the opinion of the judges, the action:

- (1) gave the horse an unfair advantage over other horses in the race; or
- (2) helped the horse improve its position in the race;
- (3) drivers going inside the pylons and not immediately correcting their position.**

(b) Horses using the inside to pass must have complete clearance of the pylons.

(c) Drivers striking pylons but not gaining an unfair advantage may be fined.

(d) When an act of interference causes a horse or part of the horse's sulky to be in violation of these rules and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered. (*Indiana Horse Racing Commission; 71 IAC 4-3-15; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3125, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098*)

SECTION 8. 71 IAC 5-1-12 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-1-12 License refusal

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 12. The commission, **the judges, or its the executive director as the commission's** designee may refuse to issue a license. ~~and give the applicant the option of~~ **The decision to refuse a license is treated as a withdrawal of an the license** application without prejudice **and is not reported to the ARCI.** If an applicant is refused, the applicant may reapply for a license. **If an applicant contests a license refusal, the judges (or an administrative law judge if the judges are unavailable) shall conduct a hearing pursuant to the procedures provided for in Article 10 of these rules [71 IAC 10]. Nonetheless, the hearing on a license refusal is not considered to be a disciplinary action. If the judges affirm the decision to refuse a license application, the refusal shall be treated as the denial of the application, consistent with these rules.** (*Indiana Horse Racing Commission; 71 IAC 5-1-12; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1141; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098*)

SECTION 9. 71 IAC 5-1-13 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-1-13 License denial

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 13. The commission, **the judges, or the executive director as the commission's** designee may formally deny an application in accordance with these rules. **If an applicant contests the basis of the denial of a license application not later than fifteen (15) days after notice is served, the judges (or an administrative law judge if the judges are unavailable) shall conduct a hearing pursuant to the procedures provided for in Article 10 of these rules [71 IAC 10]. Nonetheless, a hearing challenging the denial**

of a license application is not considered to be a disciplinary action. An application which is denied shall:

- (1) be reported in writing to the applicant stating the reasons for denial and the date when a reapplication may be submitted; and
- (2) shall be reported to the USTA and the ARCI, which shall then advise other racing jurisdictions.

(Indiana Horse Racing Commission; 71 IAC 5-1-13; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1141; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2099)

SECTION 10. 71 IAC 5-2-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-2-1 Licensing requirements for owners

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 1. (a) Each person who has a five percent (5%) or more ownership or beneficial interest in a horse is required to be licensed. An applicant for an owner's license can be of any age.

(b) An applicant for an owner's license shall own or lease a horse which is:

- (1) eligible to race; and
- (2) registered with the racing secretary.

~~An owner shall notify the judges of a change in trainer of his or her horse. A horse shall not be transferred to a new trainer after entry.~~

(c) If younger than eighteen (18) years of age, an applicant for an owner's license shall submit a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual, and other obligations relating to the applicant's participation in racing. In addition, the parents or legal guardians of an applicant for an owner's license under the age of eighteen (18) must be licensed as an owner.

(d) If the commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.

(e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary shall be approved by the judges. Each owner and trainer shall comply with all licensing requirements.

(f) The commission or its designee may refuse, deny, suspend, or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a commission rule or ruling is prohibited. *(Indiana Horse Racing Commission; 71 IAC 5-2-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1144; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2848, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2075; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2099)*

SECTION 11. 71 IAC 5-2-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-2-5 Racing colors

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 5. ~~(a) Owners or trainers shall provide racing colors which may be subject to the approval of the commission except at race tracks where colors are furnished by the association. Racing colors shall be registered with the racing secretary. The judges may authorize a temporary substitution of racing colors when necessary.~~

~~(b) The racing colors to be worn by each driver in a race shall be described in the program, and any change shall be announced to the public prior to the commencement of the race. *(Indiana Horse Racing Commission; 71 IAC 5-2-5; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1145; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2099)*~~

SECTION 12. 71 IAC 5-3-3, AS AMENDED AT 23 IR 2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-3-3 Other responsibilities

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) A trainer is responsible for the following:

- (1) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms, and other areas which have been assigned by the association.
- (2) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times.
- (3) Ensuring that fire prevention rules are strictly observed in the assigned stable area.
- (4) Providing a list to the commission of the trainer's employees on association grounds and any other area under the jurisdiction of the commission. The list shall include each employee's:
 - (A) name;
 - (B) occupation;
 - (C) Social Security number; and
 - (D) occupational license number.

The commission shall be notified by the trainer, in writing, within twenty-four (24) hours of any change.

- (5) The proper identity, custody, care, health, condition, and safety of horses in his or her charge.
- (6) Disclosure of the true and entire ownership of each horse in his or her care, custody, or control. Any change in ownership shall be reported immediately to, and approved by, the judges and recorded by the racing secretary.
- (7) Training all horses owned wholly or in part by him or her which are participating at the race meeting.
- (8) Registering with the racing secretary each horse in his or her charge within twenty-four (24) hours of the horse's arrival on association grounds.
- (9) Ensuring that, at the time of arrival at a licensed race track, each horse in his or her care is accompanied by a valid health certificate which shall be filed with the racing secretary.
- (10) Having each horse in his or her care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary.
- (11) Using the services of those veterinarians licensed by the commission to attend horses that are on association grounds.
- (12) Immediately reporting the alteration of the sex of a horse in his or her care to the horse identifier and the racing secretary, whose office shall note such alteration on the ~~certificate of registration~~. **USTA electronic eligibility.**
- (13) Promptly reporting to the racing secretary and the commission veterinarian any horse on which a posterior digital neurectomy (heel nerving) has been performed and ensuring that such fact is designated on its ~~certificate of registration~~. **the USTA electronic eligibility.**
- (14) Promptly reporting to the judges and the commission veterinarian the serious illness of any horse in his or her charge.
- (15) Promptly reporting the death of any horse in his or her care on association grounds to the judges and the commission veterinarian and compliance with 71 IAC 8 governing postmortem examinations.
- (16) Maintaining a knowledge of the medication record and status of all horses in his or her care.
- (17) Immediately reporting to the judges and the commission veterinarian if he or she knows, or has cause to believe, that a horse in his or her custody, care, or control has received any prohibited drugs or medication.
- (18) Representing an owner in making entries and scratches and in all other matters pertaining to racing.
- (19) Horses entered as to eligibility.
- (20) Ensuring the fitness of a horse to perform creditably.
- (21) Ensuring that his or her horses are properly shod, bandaged, and equipped.
- (22) Presenting his or her horse in the paddock at the appointed time before the race in which the horse is entered.
- (23) Personally attending to his or her horses in the paddock unless excused by the judges.
- (24) Instructing the driver to give his or her best effort during a race and that each horse shall be driven to win.
- (25) Attending the collection of a urine or blood sample from the horse in his or her charge or delegating a licensed employee or the owner of the horse to do so.
- (26) Promptly notifying the owner of a horse of a positive test or blood gas analysis report performed on his or her horse indicating levels in violation of 71 IAC 8.
- (27) Notifying horse owners upon the revocation or suspension of his or her trainer's license.
- (28) Guard and protect all horses in his/her care.
- (29) Account for fees and services rendered on behalf of any horse in his/her care to the appropriate owner or owners.
- (30) Determine the training regimen of all horses in his/her care.
- (31) ~~Reporting at time of entry if his or her horse will be racing with a nasal strip.~~

(b) Upon application by the owner, the judges may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.

(c) No trainer shall assign any of his/her duties or responsibilities to any person that is disqualified or ineligible to participate in racing or is not appropriately licensed.

(d) No trainer shall assume any of the above responsibilities for a horse not under his/her active care, custody, and supervision.

(e) No trainer shall practice his profession except under his own name. *(Indiana Horse Racing Commission; 71 IAC 5-3-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1146; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1498; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3125, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Mar 27, 2000, 8:20 a.m.: 23 IR 2005; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2100)*

SECTION 13. 71 IAC 5-3-6 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-3-6 Substitute trainers

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 6. (a) A trainer, absent for more than five (5) days from his or her responsibility as a licensed trainer, ~~or on a day in which the trainer has a horse in a race~~, shall obtain another licensed trainer to substitute.

(b) A substitute trainer shall accept responsibility for the horses and be approved by the judges.

(c) A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official race pursuant to this section. *(Indiana Horse Racing Commission; 71 IAC 5-3-6; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1147; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3126, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101)*

SECTION 14. 71 IAC 6-1-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-1-1 General provisions

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) A registration certificate of current ownership, together with the application for transfer thereon duly endorsed by all registered owners, must be filed in the office of the racing secretary for all horses claimed within a reasonable time after the race from which the horse was claimed.

(b) The price allowances that govern for claiming races must be approved by the commission. Claiming prices recorded on past performance lines in the daily race program ~~and on eligibility certificates~~ shall not include allowances.

(c) The claiming price, including any allowances, of each horse shall be printed on the official program adjacent to the horse's program number and claims shall be for the amount designated, subject to correction if printed in error.

(d) In handicap claiming races, in the event of an also eligible horse moving into the race, the also eligible horse shall take the place of the horse that it replaces provided that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap, except when the horse that is scratched is a trailing horse, in which case the also eligible horse shall take the trailing position, regardless of its handicap. In handicap claiming races with one (1) trailer, the trailer shall be determined as the fourth best post position.

(e) To be eligible to be claimed, a horse must start in the event in which it has been declared to race. For the purposes of this rule, a horse shall be deemed to have started if it is behind the gate when the field is released at the starting point by the starter. ~~If a horse~~

that has been drawn in to start in a claiming race is scratched for reason other than being ineligible to race, the horse shall be subject to claim in its next start, provided such start occurs within thirty (30) days of the date of the scratch, regardless of type and condition of the race; at the claiming price it was subject to in the race in which it was scratched.

(f) Any:

- (1) licensed owner;
- (2) authorized agent of a licensed owner who holds a current valid commission license; or
- (3) person who has properly applied for and been granted a claiming certificate;

shall be permitted to claim any horse. Any person or authorized agent eligible to claim a horse shall be allowed access to the grounds of the association, excluding the paddock, in order to effect a claim at the designated place of making claims and to take possession of the horse claimed.

(g) Claiming certificates are valid on the day of issue and expire at the end of the race meeting for which they are granted. These certificates may be applied for at the commission's licensing office prior to post time on any day of racing. To be eligible for a claiming certificate, a person must complete the licensing process as an owner under 71 IAC 5 and pay the appropriate fees. The photo identification badge shall be withheld until the person becomes a successful claimant. (*Indiana Horse Racing Commission; 71 IAC 6-1-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1148; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1499; errata filed Feb 9, 1995, 2:00 p.m.: 18 IR 1481; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2861, eff Jul 1, 1995; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2399; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101*)

SECTION 15. 71 IAC 6-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-1-3 Claiming procedure

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) A person desiring to claim a horse must have the required amount of money on deposit with the horsemen's bookkeeper or clerk of course at the time the completed claim form is deposited.

(b) The claimant shall provide all information required on the claim form provided by the association.

(c) The claim form shall be completed and signed by the claimant prior to placing it in an envelope provided for this purpose by the association and approved by the commission. The claimant shall seal the envelope and identify on the outside the date, race number, and track name only.

(d) The envelope shall be delivered to the designated area or licensed delegate at least thirty (30) minutes before post time of the race from which the claim is being made. That person shall certify on the outside of the envelope the time it was received.

(e) The claim shall be examined by the judges prior to the start of the race. The association's designee shall be prepared to state whether sufficient funds are on deposit in the amount equivalent to the specified claiming price and any other required fees and taxes. No official shall give any information on claims filed until after the race.

(f) It shall be the responsibility of the association to ensure that all such claim envelopes are delivered unopened or otherwise undisturbed to the judges prior to the race from which the claim is being made. The association shall provide for an agent who shall, immediately after closing, deliver the claim box to the judges' stand.

(g) The judges shall disallow any claim made on a form or in a manner which fails to comply with all requirements of this rule.

(h) Documentation supporting all claims for horses, whether successful or unsuccessful, shall include details of the method of payment either by way of:

- (1) a photostatic copy of the check presented;
- (2) written detailed information to include:
 - (A) the name of the claimant;
 - (B) the bank;
 - (C) the branch;

- (D) the account number; and
- (E) the drawer of any checks; or
- (3) details of any other method of payment.

This documentation is to be kept on file at race tracks for twelve (12) months and is to be produced to the commission for inspection at any time during the twelve (12) month period.

(i) When a claim has been submitted, it is irrevocable and is at the risk of the claimant.

(j) In the event more than one claim is submitted for the same horse, the successful claimant shall be determined by lot by the judges, and all unsuccessful claims involved in the decision by lot shall, at that time, become null and void, notwithstanding any future disposition of such claim.

(k) Upon determining that a claim is valid, the judges shall notify the paddock judge of:

- (1) the name of the horse claimed;
- (2) the name of the claimant; and
- (3) the name of the person to whom the horse is to be delivered.

Also, the judges shall cause a public announcement to be made.

(l) Every horse entered in a claiming race shall race for the account of the owner who declared it in the event, but title to a claimed horse shall be vested in the successful claimant from the time the horse is deemed to have started, and the successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured during or after the race.

(m) A post-race ~~urinalysis~~ test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race ~~urine~~ sample is collected. ~~The successful claimant shall have the right to void the claim should the forensic analysis be positive for any prohibited substance or an illegal level of a permitted medication.~~ The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation.

(n) Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended, together with the horse, until delivery is made.

(o) A claimed horse shall not:

- (1) be eligible to start in any race in the name or interest of the owner of the horse at the time of entry for the race from which the horse was claimed;
- (2) remain in or be returned to the same stable or to the care or management of the first owner or trainer; or
- (3) be sold or transferred to anyone;

for a period of thirty (30) days, unless reclaimed out of another claiming race.

(p) The claiming price shall be paid to the owner of the horse at the time entry for the race from which the horse was claimed only when the judges are satisfied that the successful claim is valid and the registration ~~and eligibility certificates~~ have been received by the racing secretary for transfer to the new owner.

(q) The judges, at the option of the claimant, shall rule a claim invalid

- ~~(1) if the official racing chemist reports a positive test on a horse that was claimed; provided such option is exercised within forty-eight (48) hours following notification to the claimant of the positive test by the judges;~~
- ~~(2) if the horse has been found ineligible to the race from which it was claimed.~~

(r) Mares and fillies who are in foal are ineligible for claiming races. Upon receipt of the horse, if a claimant determines within forty-eight (48) hours that a claimed filly or mare is in foal, he or she may, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.

(s) If a claimant demonstrates that the sex of the horse is other than reported in the official racing program, he or she may, within forty-eight (48) hours of the claim, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed. The judge shall rule the claim of the returned horse invalid.

(t) When the judges rule that a claim is invalid and the horse is returned to the owner of the horse at the time of entry for the race in which the invalid claim was made:

- (1) the amount of the claiming price and any other required fees and taxes shall be repaid to the claimant;
- (2) any purse monies earned subsequent to the date of the claim and before the date on which the claim is ruled invalid shall be the property of the claimant; and
- (3) the claimant shall be responsible for any reasonable costs incurred through the care, training, or racing of the horse while it was in his or her possession.

(u) No horse claimed out of a claiming race shall race outside the state of Indiana for the earlier to occur of:

- (1) a period of thirty (30) days; or
- (2) the conclusion of the race meeting from which it was claimed;

without the permission of the judges. (*Indiana Horse Racing Commission; 71 IAC 6-1-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1149; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2907; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2400; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101*)

SECTION 16. 71 IAC 6-4-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-4-4 Nominations, fees, and purses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. (a) All nominations to added money events must be made in accordance with the conditions.

(b) Dates for added money event nominations payment are as follows:

- (1) For stakes, the date for closing of nominations on yearlings shall be May 15. The date for closing of nominations to all other stakes shall fall on the fifteenth day of a month.
- (2) For futurities, the date for closing of nominations shall be July 15 of the year of foaling.
- (3) For early closing events, the date for closing of nominations shall fall on the first or fifteenth day of a month. Nominations on two (2) year-olds shall not be taken prior to February 15.
- (4) For late closing events, the date for closing of nominations shall be at the discretion of the sponsor or presenter.

(c) Dates for added money event sustaining payments are as follows:

- (1) For stakes and futurities, sustaining payments shall fall on the fifteenth day of a month. No stake or futurity sustaining fee shall become due prior to March 15 of the year in which the horses nominated become two (2) years of age.
- (2) For early and late closing events, sustaining payments shall fall on the first or fifteenth day of a month.

(d) The starting fee shall become due when a horse is properly declared to start and shall be payable in accordance with the conditions of the added money event. Once a horse has been properly declared to start, the starting fee shall be forfeited, whether or not the horse starts. Should payment not be made thirty (30) minutes before the post time of the event, the horse may be scratched and the payment shall become a liability of the owner who shall, together with the horse or horses, be suspended until payment is made in full, provided the association notifies the commission within thirty (30) days after the starting date.

(e) Failure to make any payment required by the conditions constitutes an automatic withdrawal from the event.

(f) Conditions that will eliminate horses nominated to an event, or add horses that have not been nominated to an event by reason of performance of such horses at an earlier meeting, are invalid. Early and late closing events shall have not more than two (2) also eligible conditions.

(g) The date and place where early and late closing events will be raced must be announced before nominations are taken. The date and place where stakes and futurities will be raced must be announced as soon as determined but, in any event, such announcement must be made no later than March 30 of the year in which the event is to be raced.

(h) Deductions may not be made from nomination, sustaining, and starting payments or from the advertised purse for clerical or any other expenses.

(i) Every nomination shall constitute an agreement by the person making the nomination and the horse shall be subject to these rules. All disputes and questions arising out of such nomination shall be submitted to the commission, whose decision shall be final.

(j) Nominations and sustaining payments must be received by the sponsor or presenter not later than the hour of closing, except those made by mail must bear a postmark placed thereon not later than the hour of closing. In the event the hour of closing falls on a Saturday, Sunday, or legal holiday, the hour of closing shall be extended to the same hour of the next business day. The hour of closing shall be midnight of the due date.

(k) If conditions require a minimum number of nominations and the event does not fill, the commission and each nominator shall be notified within twenty (20) days of the closing of nominations and a refund of nomination fees shall accompany such notice to nominators.

(l) If conditions for early or late closing events allow transfer for change of gait, such transfer shall be to the lowest class the horse is eligible to at the adopted gait, eligibility to be determined at the time of closing nominations. The race to which the transfer may be made must be the one nearest the date of the event originally nominated to. Two (2) year-olds, three (3) year-olds, or four (4) year-olds, nominated in classes for their age, may only transfer to classes for the same age group at the adopted gait to the race nearest the date of the event they were originally nominated to, and entry fees to be adjusted.

(m) A nominator is required to guarantee the identity and eligibility of nominations, and if this information is given incorrectly, he or she may be fined, suspended, or expelled and the horse declared ineligible. If any purse money was obtained by an ineligible horse, the monies shall be forfeited and redistributed among those justly entitled to the same.

(n) Early or late closing finals must be contested if five (5) or more ~~betting interests~~ horses are declared to start **unless otherwise specified in the race conditions of the early closing or late closing event**. If less horses are declared to start than required, the race may be declared off, in which case the total of nominations, sustaining, and starting payments received shall be divided equally to the horses declared to start. Such distribution shall not be credited as purse winnings.

(o) Stakes or futurities must be contested if one (1) or more horses are declared to start. In the event only one (1) horse or only horses in the same interest start, it constitutes a walk-over. In the event no declarations are made, the total of nomination and sustaining payments shall be divided equally to the horses remaining eligible after payment to the last sustaining payment, but such distribution shall not be credited as purse winnings.

(p) Associations shall provide stable space for each horse declared on the day before, the day of, and the day following the race.

~~(q) The maximum size of fields permitted in any added money event shall be no more than one (1) trailer unless otherwise approved by the commission.~~

~~(r) An association may elect to go with less than the number of trailers specified in subsection (q).~~

~~(s) (q)~~ In the event more horses are declared to start than allowed in one (1) field, the race will be conducted in divisions or eliminations, as specified in the conditions.

~~(t) (r)~~ In early closing races, late closing races, and overnight races requiring entry fees, all monies paid in by the nominators in excess of eighty-five percent (85%) of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the minimum purse. If the race is split and raced in divisions, the provisions of subsection (u) shall apply. Where overnight races are split and raced in eliminations rather than divisions, all starting fees payable under the provisions of this rule shall be added to the advertised purse.

~~(u) (s)~~ Where a race other than a stake or futurity is divided, each division must race for at least seventy-five percent (75%) of the advertised purse.

~~(v) (t)~~ In added money events conducted in eliminations, starters shall be divided by lot. Unless conditions provide otherwise, sixty percent (60%) of the total purse will be divided equally among the elimination heats. The final heat will be contested for forty percent (40%) of the total purse. Unless the conditions provide otherwise, all elimination heats and the final heat must be raced on the same day. If the conditions provide otherwise, elimination heats must be contested no more than six (6) days, excluding Sundays, prior

to the date of the final heat. The winner of the final heat shall be the winner of the race.

(w) (u) The number of horses allowed to qualify for the final heat of an event conducted in elimination heats shall not exceed the maximum number permitted to start in accordance with these rules.

(x) (v) The judges' decisions in arriving at the official order of finish of elimination heats on the same program shall be final and irrevocable and not subject to appeal or protest. *(Indiana Horse Racing Commission; 71 IAC 6-4-4; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2910; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2075; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2402; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3126, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2103)*

SECTION 17. 71 IAC 7-1-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-9 Registration with USTA or CTA

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 9. (a) No horse may be started in any race or qualifying race unless it is registered with the USTA or Canadian Standardbred Horse Society.

(b) No horse shall be allowed to start unless a current eligibility certificate from the USTA or the CTA is on file in the office of the racing secretary, except that the judges may in their discretion, for good cause, waive this requirement if horses are shipped in for stakes or allowance races, early closers or invitationals, and are otherwise properly identified. A written report of such waiver shall be submitted by the racing secretary to the judges. *(Indiana Horse Racing Commission; 71 IAC 7-1-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1152; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2104)*

SECTION 18. 71 IAC 7-1-10 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-10 Identification of horse

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 10. (a) When a horse is entered, it must be clearly identified by statement of its:

- (1) name;
- (2) age;
- (3) color;
- (4) sex; and
- (5) the names of its sire and dam.

(b) Any alteration in the sex of a horse must be reported and noted by the trainer to the racing secretary. *(Indiana Horse Racing Commission; 71 IAC 7-1-10; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1152; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2404; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3128, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2105)*

SECTION 19. 71 IAC 7-1-18 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-18 Racing entries

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 18. (a) The racing secretary shall receive entries and declarations for all races. In the absence of notice to the contrary, nominations to any stakes closing on the eve of or during a meeting shall be received by the racing secretary.

(b) All entries must:

- (1) be made in writing;
- (2) be signed by the owner or his or her authorized agent except as provided in section 29(e) of this rule;
- (3) give the name and address of both the bona fide owner and agent or registered stable name or lessee;
- (4) give the name, age, color, sex, sire, and dam of horse;
- (5) comply with the provisions of section 10 of this rule and, for claiming events, the current registration certificate must be on file with the racing secretary. A separate claiming authorization form, signed by the registered owner or owners indicating the minimum amount for which the horse may be entered to be claimed, shall be ~~attached to the current registration certificate~~. **filed with the racing secretary.**

(Indiana Horse Racing Commission; 71 IAC 7-1-18; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1153; errata filed Mar 9, 1994, 2:50 p.m.: 17 IR 1622; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2105)

SECTION 20. 71 IAC 7-1-20 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-20 Elimination heats; divisions

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 20. (a) A permit holder must specify how many entries are required for overnight events and after the condition is fulfilled, the event must be contested except when declared off as provided under section 31 of this rule. Requirements to start a race shall be as follows:

- (1) In early closing events or late closing events, if five (5) or more ~~betting interests~~ **horses** are declared in to start, the race must be contested **unless otherwise specified in the race conditions of the early closing or late closing event.**
- (2) A permit holder may require five (5) betting interests to start. Stakes and futurities must be raced if one (1) or more horses are declared in to start.
- (3) In an early closing event, if fewer horses are declared in than are required to start, and all declares are immediately so notified, the horse or horses declared in and ready to race shall be entitled to all the entrance money and any forfeits from each horse named.

(b) Requirements for elimination heats or two (2) divisions are at the racing secretary's discretion unless specified in the conditions. Where a race other than a stake or futurity is divided, each division must race for at least seventy-five percent (75%) of the advertised purse.

(c) Requirements for elimination plans shall be as follows:

(1) Whenever elimination heats are required, or specified in the published conditions, such race shall be raced in the following manner unless conducted under another section of this rule:

(A) The field shall be divided by lot, and the first division shall race a qualifying dash for thirty percent (30%) of the purse.

(B) The second division shall race a qualifying dash for thirty percent (30%) of the purse and the horses so qualified shall race in the main event for forty percent (40%) of the purse.

(C) The winner of the main event shall be the race winner.

(2) In the event there are more horses declared to start than can be accommodated by the two (2) elimination dashes, then there will be added enough elimination dashes to take care of the excess. The percent of the purse raced for each elimination dash will be determined by dividing the number of elimination dashes into sixty (60). The main event will race for forty percent (40%) of the purse.

(3) Unless the conditions provide otherwise, if there are two (2) elimination dashes, the first four (4) finishers in each dash qualify for the final. If three (3) or more elimination dashes are required, not more than three (3) horses will qualify for the final from each qualifying dash.

(4) The judges shall draw positions in which the horses are to start in the main event to determine:

(A) which of the two (2) dash winners shall have the pole, and which the second position;

(B) which of the two (2) horses that have been second will start in third position; and

(C) which of the two (2) horses that have been third will start in fourth position;

and continue in this pattern until all horses have been drawn. All elimination dashes and the concluding heat must be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(5) In the event there are three (3) separate heat or dash winners and they alone come back in order to determine the race winner according to the conditions, they will take post positions according to the order of their finish in the previous heat or dash.

(d) Where elimination races are provided in the conditions of an early closing event, stake, or futurity, such elimination race must be held not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race. *(Indiana Horse Racing Commission; 71 IAC 7-1-20; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1154; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2404; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3128, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2105)*

SECTION 21. 71 IAC 7-1-29 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-29 Declaration to start and drawing horses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 29. (a) The permit holder shall provide a locked box with an aperture through which declarations shall be deposited. **With the approval of the judges the racing secretary or his designee may open the entry box.**

~~(b) At the time specified, a judge shall unlock the box, assort the declarations found therein, and draw the positions in the presence of such owners or their representatives as may appear.~~

~~(c) The entry box shall be opened by a judge at the advertised time and a judge will be responsible to see that at least one (1) horseman is present.~~

~~(b) No owner, trainer, or agent for a horse with a declaration in the entry box shall be denied the privilege of being present under the supervision of a judge: when the box is open.~~

(c) The racing secretary responsibilities shall include:

- (1) all entries shall be listed;
- (2) the eligibility verified;
- (3) preference ascertained;
- (4) starters selected. ~~and~~
- ~~(5) post positions drawn~~

~~(d) If it is necessary to reopen any race, public announcement shall be made at least twice. and the box reopened at a specified time.~~

(e) The judges shall conduct the draw for post positions along with a representative of the horsemen.

~~(f) (f) Declarations by mail, telegraph, or telephone actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. Mail, telephone, and telegraph declarations must contain all information required by the racing secretary. It shall be the responsibility of the racing secretary to see that such entries are signed by the person receiving such entries.~~

~~(g) (g) When a track requires a horse to be declared at a stated time, failure to declare as required shall be considered a withdrawal from the event.~~

~~(h) (h) After declarations to start have been made, no horse shall be withdrawn from the race except by permission of the judges. A fine or suspension, or both shall be imposed for drawing a horse without permission and the penalty shall apply to both the horse and the party who violates this rule.~~

~~(i) (i) In all races, drawings shall be final unless there is conclusive evidence that an entry was timely received by the racing office and was omitted from the race through the error of the association, the commission, or its agents or employees in which event the race shall be redrawn, provided the error is discovered prior to scratch time.~~

~~(j) (j) Declarations shall state who shall drive the horse. Drivers may be changed until scratch time. *(Indiana Horse Racing Commission; 71 IAC 7-1-29; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1156; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2863, eff Jul 1, 1995; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2406; emergency rule filed Jun 8, 1999, 9:31*~~

a.m.: 22 IR 3129, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2106)

SECTION 22. 71 IAC 7-1-36 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-36 Current race lines

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 36. (a) ~~Eligibility papers and/or~~ Current race lines, including last start, must be available at scratch time or the horse will be scratched.

(b) It shall be the trainer's responsibility to inform the racing office at entry time of a possible missing line. Also, the trainer shall be responsible to supply the same information to the judges at scratch time.

(c) Scratch time is established by the association.

(d) If, after scratch time, a horse drawn into race at an Indiana pari-mutuel track participates in any other race, that horse shall be scratched.

(e) No horse may start in a qualifying race ~~unless until approved by the USTA for electronic eligibility. papers are in the racing office:~~ (Indiana Horse Racing Commission; 71 IAC 7-1-36; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3130, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2107)

SECTION 23. 71 IAC 7-2-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-2-5 Starting

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) The starter shall have control of the horses from the formation of the parade until he or she gives the word "go". In starting the race, the starter shall take the following steps:

(1) After one (1) or two (2) preliminary warming-up scores, the starter shall notify the drivers to come to the starting gate. During or before the parade, the drivers must be informed as to the number of scores permitted.

(2) The horses shall be brought to the starting gate as near one-quarter (¼) of a mile before the start as the track will permit.

(3) Allowing sufficient time so that the speed of the gate can be increased gradually ~~the following minimum speeds will be maintained: to facilitate a fair start.~~

~~(A) For the first one-eighth (1/8) mile, not less than eleven (11) miles per hour.~~

~~(B) For the next one-sixteenth (1/16) of a mile, not less than eighteen (18) miles per hour.~~

~~(C) From that point to the starting point, the speed will be gradually increased to maximum speed.~~

~~(D) On mile tracks, horses will be brought to the starting gate at the head of the stretch and the relative speeds established in clauses (A), (B), and (C) will be maintained.~~

(b) The starting point will be a point marked on the inside rail a distance of not less than two hundred (200) feet from the first turn. The starter shall give the word "go" at the starting point. When a speed has been reached in the course of a start, there shall be no decrease except in the case of a recall. (Indiana Horse Racing Commission; 71 IAC 7-2-5; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1158; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2107)

SECTION 24. 71 IAC 7-3-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-2 Restriction on financial interest

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. No driver who has any financial interest in any race horse ~~in training at a meeting~~ shall drive any other horse in the same race with his or her horse, ~~at the same meeting.~~ **except if a trainer, who is also a license driver, owns all or part of a horse in his coupled entry, he is permitted to drive either horse.** (*Indiana Horse Racing Commission; 71 IAC 7-3-2; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1160; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2107*)

SECTION 25. 71 IAC 7-3-6 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-6 Attire

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 6. (a) Drivers must wear distinguishing colors and clean white pants and shall not be allowed to start in a race or other public performance unless in the opinion of the judges:

- (1) they are properly dressed;
- (2) their driving outfits are clean; and
- (3) they are well groomed.

During inclement weather conditions, drivers must wear rain suits ~~in either of matching their colors. or made of a transparent material through which their colors can be distinguished:~~

(b) Any driver wearing colors who appears at a betting window or at a bar or in a restaurant which dispenses alcoholic beverages shall be fined or suspended, or both. (*Indiana Horse Racing Commission; 71 IAC 7-3-6; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1161; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2912; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2107*)

SECTION 26. 71 IAC 7-3-7 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-7 Driving rules

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 7. (a) Although a leading horse is entitled to any part of the track, neither the driver of the first horse or any other driver in the race shall do any of the following, which shall be considered a violation of driving rules:

- (1) Change either to the right or left during any part of the race when another horse is so near that in altering the position the horse behind is compelled to shorten its stride or the driver of the horse behind is forced to pull the horse out of its stride.
- (2) Jostle, strike, hook wheels, or interfere with another horse or driver.
- (3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers.
- (4) Swerve in and out or pull up quickly.
- (5) Crowd a horse or driver by putting a wheel under the horse or driver.
- (6) Carry a horse out.
- (7) Sit down in front of a horse or take up abruptly in front of other horses so as to cause confusion or interference among trailing horses.
- (8) Let a horse pass inside needlessly or otherwise help another horse to improve its position in the race.
- (9) Commit any act which shall impede the progress of another horse or cause it to break.
- (10) Change course after selecting a position in the homestretch, swerve in and out, or bear in and out in such a manner as to interfere with another horse or cause it to break.
- (11) Drive in a careless or reckless manner.
- (12) Whip under the arch of the sulky.
- (13) Kick the horse **or brush hindquarters or legs with the foot.**
- (14) Lay off a normal place and leave a hole when it is well within a horse's capacity to keep the hole closed.
- (15) Cross the inside limits of the course.
- (16) If any of the violations in this subsection is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back if, in their opinion, the violation helped improve the entry's finishing position. Otherwise, penalties may be applied individually to the drivers of any entry.

(b) All complaints by drivers of any foul driving or other misconduct during the heat must be made at the termination of the heat,

unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of this section must, before dismounting, indicate to the judges or patrol judge his or her desire to enter such claim or complaint and forthwith upon dismounting shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until such claim, objection, or complaint has been entered and considered.

(c) In case of interference, collision, or violation of any of the restrictions in subsections (a) and (b), the offending horse may be placed back one (1) or more positions in that heat or dash. In the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver shall be fined, suspended, or both. In the event a horse is set back under this subsection, it must be placed behind the horse with whom it interfered.

(d) If there be any purse money for which horses have started but were unable to finish due to interference and/or an accident, all unoffending horses who did not finish will share equally in such purse money.

(e) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse:

(1) is being driven or has been driven with intent to prevent winning a heat or dash which the horse was evidently able to win; or
(2) is being raced in an inconsistent manner or to perpetrate or to aid a fraud;
the judges shall consider it a violation and the driver, and anyone acting in concert with the driver to so affect the outcome of the race or races, may be suspended or referred to the commission. The judges may substitute a competent and reliable driver at any time. The substituted driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(f) The judges may impose a penalty not to exceed a suspension of sixty (60) days, a fine of one thousand dollars (\$1,000), or both or refer the matter to the commission if a driver commits any of the following violations:

(1) In the event a drive is unsatisfactory due to lack of effort or carelessness despite the judges' belief that there is no fraud, gross carelessness, or a deliberate inconsistent drive.
(2) In the event the driver shall rein in before crossing the finish line or shall fail to use his or her utmost exertion to obtain a winning performance from the horse driven by him or her.
(3) In the event a driver of a trailing horse shall fail to set or maintain a pace or trot comparable to the class in which he or she is racing.

In the event a penalty is placed on a driver under this subsection, the horse may be placed on the judges' list and may not be removed therefrom until it goes in a qualifying race and qualifies in a time comparable to the class of the horse. (*Indiana Horse Racing Commission; 71 IAC 7-3-7; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1161; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2913; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3130, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2108*)

SECTION 27. 71 IAC 8-10-5, AS AMENDED AT 23 IR 1656, SECTION 7, IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-10-5 Positive sample results

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) A positive test result attained shall be reported in writing to the commission director of security or his or her designee from the laboratory performing the test analysis. A positive test result confirming the presence of any controlled substance or prescription drugs shall be prima facie evidence that there has been a violation of section 1 of this rule. In the event of such a positive test, it is presumed that:

(1) the sample of urine tested by the laboratory to which it is sent is taken from the person and its integrity has been preserved;
(2) all accompanying procedures of collection, preservation, transfer to the laboratory, and analysis of the sample are correct and accurate; and
(3) the report received from the laboratory pertains to the sample taken from the person in question and correctly reflects the condition of the person at the time that the sample was given.

With respect to the presumptions set forth in this subsection, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter which is conducted by the judges or by the commission.

(b) Upon receipt of written notice from the testing laboratory that a specimen has been found positive for a controlled substance or a prescription drug, the commission director of security or his or her designee shall, as quickly as possible, notify the licensed person by:

- (1) public service;
 - (2) in person; or
 - (3) by certified mail, return receipt requested;
- of the positive test.

(c) An association which has obtained a positive test result confirming the presence of any controlled substance in an association employee, who is a licensee or an applicant for a license, shall notify the commission director of security or his or her designee and the affected employee as quickly as possible. *(Indiana Horse Racing Commission; 71 IAC 8-10-5; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1176; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1670, eff Feb 24, 2000; errata filed Mar 13, 2000, 7:36 a.m.: 23 IR 1656; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2109)*

SECTION 28. 71 IAC 10-1-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-1-1 General provisions

Authority: IC 4-31-3-9

Affected: IC 4-21.5; IC 4-31

Sec. 1. All disciplinary hearings conducted by the judges ~~and all proceedings conducted on behalf of the commission~~ shall be conducted in accordance with this article. ~~and with IC 4-21.5.~~ **All other proceedings conducted on behalf of the commission shall be conducted in accordance with this article and with IC 4-21-5.** *(Indiana Horse Racing Commission; 71 IAC 10-1-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1198; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2109)*

SECTION 29. 71 IAC 10-2-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-2-4 Notice

Authority: IC 4-31-3-9

Affected: IC 4-21.5-3-1; IC 4-31-13

Sec. 4. (a) Except as provided by these rules regarding summary suspensions, the judges shall provide written notice, at least twelve (12) hours before the hearing, to a person who is the subject of a disciplinary hearing. The person may waive his or her right to twelve (12) hours' notice by executing a written waiver.

(b) Notice given under this section must include the following:

- (1) The names and mailing addresses of all parties and other persons to whom notice is being given by the judges.
- (2) The name, official title, and mailing address of any counsel or employee who has been designated to appear for the commission and a telephone number through which the counsel or employee can be reached.
- (3) The official file or other reference number, and the name of the proceeding.
- (4) A statement of the time, place, and nature of the hearing.
- (5) A statement of the legal authority and jurisdiction under which hearing is to be held.
- (6) A reference to the particular sections of the statutes or rules involved.
- (7) The name, official title, and mailing address of the judges and a telephone number through which information concerning hearing schedules and procedures may be obtained.
- (8) A short, plain description of the alleged conduct that has given rise to the disciplinary hearing.
- (9) If there was a complaint, a copy of the complaint filed with the judges.
- (10) The possible penalties that may be imposed.
- (11) A statement that a party who fails to attend or participate in a hearing or other later stage of the proceeding may be held in default or have a proceeding dismissed.

(c) If possible, the judges or their designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the judges shall mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail. If the identity, address, or existence of a person is not ascertainable, service shall be made by a single publication in a newspaper of general circulation under IC 4-21.5-3-1.

(d) The judges may ~~immediately suspend~~ **take any appropriate action, including, but not limited to, the immediate suspension** of the license of a person who fails to appear at a disciplinary hearing after receiving written notice of the hearing. ~~under IC 4-21.5-3-24.~~ (*Indiana Horse Racing Commission; 71 IAC 10-2-4; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1198; emergency rule filed Sep 30, 1994, 1:30 p.m.: 18 IR 275; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1505; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2889, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2163; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2109*)

SECTION 30. 71 IAC 10-2-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-2-9 Appeals

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 9. (a) A person who has been aggrieved or adversely affected by a ruling or decision of the judges may appeal to the commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) An appeal under this section must be filed not later than fifteen (15) days after the ruling or decision is served upon the person. The appeal must be filed with the commission. The appeal must be accompanied by a deposit of five hundred dollars (\$500) in the form of a cashier's check or money order to defray the costs of appeal. The costs of appeal shall consist of the cost of the court reporter, the cost of the transcript required for the appeal, and the cost of the administrative law judge. If a person is wholly or partially successful in prosecuting an appeal and a final order is entered on their behalf, the costs of appeal will be assessed against the commission. In all other instances, the costs of appeal will be assessed against the person bringing the appeal. The deposit provided for by this subsection will be applied toward any such assessment. To the extent that such an assessment is less than the amount of the deposit, that difference shall be refunded to the person initiating the appeal. To the extent that the assessment exceeds the amount of the deposit, the person initiating the appeal is responsible for remitting the balance to the commission within ten (10) days of such a request after the issuance of a final order.

(c) An appeal must be in writing on a form prescribed by the commission. The appeal must include:

- (1) the name, address, telephone number, and signature of the person making the appeal; and
- (2) a statement of the basis for the appeal, identified with reasonable particularity.

(d) On notification by the commission that an appeal has been filed, the judges shall forward to the commission the record of the proceeding on which the appeal is based.

(e) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, ~~the person shall pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the commission shall refund the amount of the fine.~~ **payment of the fine is not due until seven (7) days after a final determination or order has been entered which supports the imposition of such a sanction.**

(f) A decision by the judges regarding the running of the race is final and may not be appealed. (*Indiana Horse Racing Commission; 71 IAC 10-2-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1200; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3415; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2427; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2110*)

SECTION 31. 71 IAC 10-3-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-3-4 Filing pleadings

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 4. (a) Except as otherwise provided by this section, an original and ~~three (3) copies~~ **one (1) copy** of each pleading must be filed with the commission. An original and ~~three (3) copies~~ **one (1) copy** of each pleading relating to discovery must be filed with the commission. A pleading is considered filed only when actually received by the commission. Each pleading must include a certification that a copy has been served on each party of record, stating the name of each party served and the date and manner of

service.

(b) If a pleading is sent to the commission by first class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail one (1) day or more before the last day for filing the pleading, the pleading is considered received and filed in time if the pleading is actually received not more than ten (10) days after the deadline. A legible postmark affixed by the United States postal service is prima facie evidence of the date of mailing. For purposes of responsive pleadings for which the deadline for filing is set by the filing of another pleading, the pleading to be filed first is considered filed when actually received by the commission.

(c) Unless otherwise provided by statute, the administrative law judge for a proceeding may extend the time for filing a pleading on a motion made by a party before the filing deadline if the administrative law judge determines that there is good cause for the extension and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion. A copy of a motion made under this section must be served on all parties of record contemporaneously with the filing of the motion.

(d) A pleading may be filed by facsimile, provided an original and the required number of copies are received in the commission's office not later than 5 p.m. of the third day after the date the document was filed by facsimile. The inability to transmit a document due to equipment malfunction or any other cause does not relieve the person attempting to file the document of the filing deadline.

(e) If the deadline for filing a pleading falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(f) The failure to file a pleading in accordance with this section may result in the pleading being struck. (*Indiana Horse Racing Commission; 71 IAC 10-3-4; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1202; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2110*)

SECTION 32. 71 IAC 10-3-8 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-3-8 Conferences

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 8. (a) On written notice, the administrative law judge may, on his or her own motion or on the motion of a party, direct each party to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following:

- (1) Simplifying issues.
- (2) Amending the pleadings.
- (3) Making admissions of fact or stipulations to avoid the unnecessary introduction of proof.
- (4) Designating parties.
- (5) Setting the order of procedure at a hearing.
- (6) Identifying and limiting the number of witnesses.
- (7) Resolving other matters that may expedite or simplify the disposition of the controversy, including settling issues in dispute.

(b) The administrative law judge shall issue an order with respect to the action taken at the prehearing conference unless the parties enter into a written agreement as to the action. The administrative law judge may enter appropriate orders concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence, and scope of inquiry.

(c) During a hearing, on written notice or notice stated into the record, the administrative law judge may direct each party or the representative of each party to appear for a conference to consider any matter that may expedite the hearing and serve the interests of justice. The administrative law judge shall prepare a written statement regarding the action taken at the conference. ~~and the statement must be signed by each party and made a part of the record.~~ (*Indiana Horse Racing Commission; 71 IAC 10-3-8; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1204; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2111*)

SECTION 33. 71 IAC 10-3-15 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-3-15 Final order and findings

Authority: IC 4-31-3-9

Affected: IC 4-21.5-3-27; IC 4-31-13

Sec. 15. (a) The administrative law judge shall issue a final order, including findings of fact under IC 4-21.5-3-27.

(b) **If the commission exercises its discretion to concurrently act as the administrative law judge and ultimate authority for the agency, then** this section does not apply, ~~if the commission is acting as the ultimate authority for the agency.~~ **Otherwise,** the issuance of an order shall be subject to the following:

(1) After an administrative law judge issues an order, the commission shall issue a final order:

- (A) affirming;
- (B) modifying; or
- (C) dissolving;

the administrative law judge's order. The commission may remand the matter, with or without instructions, to an administrative law judge for further proceedings.

(2) In the absence of an objection or notice under subdivision (3) or (4), the commission shall affirm the order.

(3) To preserve an objection to an order of an administrative law judge for judicial review, a party must not be in default under this article and must object to the order in a writing that:

- (A) identifies the basis of the objection with reasonable particularity; and
- (B) is filed with the ultimate authority responsible for reviewing the order within fifteen (15) days (or any longer period set by statute) after the order is served on the petitioner.

(4) Without an objection under subdivision (3), the commission or its designee may serve written notice of its intent to review any issue related to the order. The notice shall be served on all parties. The notice must identify the issues that the commission intends to review.

(5) A final order disposing of a proceeding or an order remanding an order to an administrative law judge for further proceedings shall be issued within sixty (60) days after the latter of:

- (A) the date that the order was issued;
- (B) the receipt of briefs; or
- (C) the close of oral argument;

unless the period is waived or extended with the written consent of all parties or for good cause shown.

(6) After remand of an order under this section to an administrative law judge, the judge's order is also subject to review under this section.

(Indiana Horse Racing Commission; 71 IAC 10-3-15; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1206; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2111)

SECTION 34. 71 IAC 11-1-13 IS AMENDED TO READ AS FOLLOWS:

71 IAC 11-1-13 Transfers of permits

Authority: IC 4-31-3-9

Affected: IC 4-31-5; IC 4-31-13-1

Sec. 13. (a) A permit issued under IC 4-31-5 is for the benefit of the permit holder only and is applicable only to the location for which the permit is issued. The permit may not be sold or otherwise transferred and shall terminate upon a ~~substantial~~ change of ownership of the permit holder, unless the commission has granted prior written approval of the substantial change **of ownership or unless this section has been otherwise complied with.**

(b) The sale, pledge, encumbrance, **execution of an option agreement**, or other transfer of five percent (5%) or more of the equity securities or other ownership interest of a partnership, association, corporation, or other entity holding a permit shall be considered a substantial change of ownership. A **"substantial change in ownership", for purposes of this subsection, includes ownership, directly or indirectly, by a person, individually or in association with others, contingent or otherwise, whether through a subsidiary or intermediary, who acquires or has a right to acquire, directly or indirectly, a five percent (5%) or more beneficial ownership of the permit holder.** Any request for approval of a substantial change in ownership shall contain ~~where applicable~~; the same information ~~about the proposed transferee as that~~ is required to be furnished under section 4 of this rule. Upon receipt of all information required by the commission with regard to a proposed substantial change in ownership, the commission shall, ~~within sixty (60) days as soon as practicable~~, make a determination whether to authorize and approve the substantial change in ownership of a permit holder.

(c) The sale, pledge, encumbrance, execution of an option agreement, or other transfer of ownership of a permit which is less than five *[sic., percent]* (5%) of the equity securities or other ownership interest of a partnership, association, corporation, or other entity holding a permit shall be considered a nominal change of ownership. A request for approval to make a nominal change of ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change of ownership will be based. The commission shall determine whether the proposed nominal change of ownership may have an adverse effect upon pari-mutuel racing or the integrity of pari-mutuel racing. The commission or the executive director of the commission shall, within sixty (60) days after the receipt of all information required by the commission or executive director, including investigation reports, shall approve or disapprove the requested nominal change of ownership, and if not acted upon by the commission within that sixty (60) day period the request to make a nominal change of ownership shall be considered approved by the commission.

(d) For purposes of subsections (a) and (b), commission approval is not required for:

- (1) the transfer of an ownership interest in a permit holder whether substantial or nominal, direct or indirect, if by a publicly traded corporation, and if the beneficial ownership transferred is acquired by a person who will hold the voting securities of the publicly traded corporation for investment purposes only; or
- (2) a debt transaction of a publicly traded corporation unless such transaction results in the pledge or encumbrance of the assets or any portion thereof of the permit holder.

A "publicly traded corporation" is one that has voting securities registered under Section 12 of the Securities and Exchange Act of 1934 (1934 Act), or issues securities subject to Section 15(d) of the 1934 Act, or has voting securities exempted from the registration requirements due to Section 3 of the Securities Act of 1933, or is required to file under the 1934 Act.

(e) Any promise, agreement, sale, pledge, encumbrance, option agreement, or other transfer of ownership of a permit, either nominal or substantial, not memorialized by and reduced to writing will be considered void by the commission.

(f) False or misleading information, omission of required information, or substantial deviations from representations in a request for a transfer of any interest in a permit issued by the commission may be cause for termination of the permit, denial of the request for approval, and/or for the imposition of any sanction available to the commission pursuant to IC 4-31-13-1. (*Indiana Horse Racing Commission; 71 IAC 11-1-13; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1213; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2112*)

SECTION 35. THE FOLLOWING ARE REPEALED: 71 IAC 3-3-2; 71 IAC 7-1-23; 71 IAC 7-2-1.

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